

REMARKS

SUMMARY:

The present application sets forth claims 11-13, 15, 17, 19-25, 56-57 and 59-66, of which claims 11 and 60 are independent claims. Prior claims 11-25 and 55-59 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Marybeth Regan, "Utilizing the Internet in education", College and University, Washington: Spring 2001 Vol. 76, Iss. 4; pgs. 37-45 (hereinafter "Regan") in view of U.S. Patent No. 7,062,462 (Ireland et al.) Specific objective evidence of non-obviousness is presented in the form of commercial success of the invention, which must be considered by the Examiner in any determination of patentability. Not only is the presently claimed subject matter not obvious in light of such secondary considerations, but the cited prior art fails to disclose all elements of the claims as presently amended. An overview of the invention and discussion of the presently amended and newly presented claims in light of the cited prior art is also presented below. Based on the amendments and remarks herein as well as the concurrently filed declaration of sole inventor Harry V. Weber, Applicant respectfully traverses the prior art rejections and requests reconsideration of all currently pending claims.

EVIDENCE OF NON-OBVIOUSNESS:

The recent U.S. Supreme Court case of *KSR International Co. v. Teleflex, Inc.*, 127 S.Ct. 1727, 82 USPQ 2d 1382 (2007) affirmed that objective evidence relevant to the issue of obviousness must be evaluated by Office personnel. Such objective evidence, referred to as "secondary considerations," was identified in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966) as including evidence of commercial success, long-felt but unsolved needs, failure of others, and unexpected results. The Court of Appeals for the Federal Circuit stated in *Stratoflex, Inc. v. Aeroquip Corp.*, 713

F.2d 1530, 1538, 218 USPQ 871, 879 (Fed. Cir. 1983) that "evidence rising out of the so-called 'secondary considerations' must always when present be considered en route to a determination of obviousness" (emphasis added). (See also MPEP §716.01(a).)

Not only does the cited prior art fail to disclose all elements set forth in the subject claims, but it would not be obvious to combine these references in rendering the presently claimed invention unpatentable. Particular evidence of this non-obviousness is presently submitted in the form of a declaration by sole inventor Harry V. Weber, who is President of Weber & Associates, Inc., the assignee of the subject application. Such objective evidence identifies commercial success of the subject technology as a pertinent secondary consideration relevant to any current determination of obviousness of the present claims.

The presently submitted declaration is provided under 37 C.F.R. §1.132 as objective evidence of commercial success of a technology offered by Weber & Associates Inc. referred to as their Virtual Financial Aid Office (VFAO) technology. The web-based application for providing a multi-level financial aid system disclosed in the subject application and set forth in the presently pending claims is generally synonymous with the commercial embodiments of Weber & Associates' VFAO technology currently provided and with commercial embodiments provided to its customers since July 1, 2001. Since its complete inception in mid-2001, Weber & Associates has offered its VFAO technology for sale to institutions of higher education, including colleges and universities throughout the country. During the time period from mid-2001 until present, over thirty-five (35) different colleges and universities have purchased and used the VFAO technology provided by Weber & Associates, Inc. and have implemented it for use in over eighty (80) different locations in various states throughout the nation. This commercially successful product has generated over \$16.5 million dollars in sales for Weber & Associates from July 1, 2001 until present. The commercial success of the VFAO technology, synonymous with that described by the

present claims, is deniably astounding and should thus be given substantial consideration in finding the present claims non-obvious.

The commercial success of the subject technology has not only been realized by the assignee, but also for the educational institutions who have implemented the subject technology. Several of such institutions provide online degree programs and so having an integrated on-line web-based application for providing financial aid services to their students has been critical to their continued ability to function in today's competitive world of higher education. Multiple such institutions have doubled their total number of students during the time period in which VFAO technologies were provided to such institutions, and have thus recognized the value of the VFAO technology to their growth.

Applicant respectfully submits that the subject web-based application for providing integrated on-line financial aid features, as set forth in present claims 11-13, 15, 17, 19-25, 56-57, 59 and 60-66, is not obvious in light of the presently submitted objective evidence of the remarkable commercial success of Applicant's virtual financial aid office technology. Applicant respectfully requests acknowledgement of this non-obviousness.

OVERVIEW OF THE INVENTION:

Before particularly addressing the technology set forth in the present respective claims, the following commentary is presented to highlight some general differences in the technology disclosed in the subject application and that of Regan and Ireland et al. Applicant notes that the subject web-based application for providing a multi-level financial aid system is generally directed to the steps of actually processing and generating a financial aid award package for a student associated with a given educational institution, including the basic steps of gathering required information for a given student, checking this information against related info provided to various governmental agencies, ensuring compliance with federal regulatory agencies,

determining aid eligibility, and generating an award notice. Such steps and others are part of the overall process disclosed in the subject application for providing a single integrated on-line web application that processes student financial aid without the need for time-consuming and inefficient interaction by students and staffing in a traditional financial aid office associated with an educational institution. By providing a centralized platform with instantaneous access by multiple parties, including students and a given educational institution, certain document gathering and aid determination steps are streamlined, paperwork is reduced, aid processing times are improved, and staffing needs for various financial aid entities may also be scaled back. (See page 4, lines 17-26 of the original application.)

Applicant notes that provision of a web-based application as set forth in the presently pending claims does more than just automate the conventional interaction at a college's financial aid office. Examples in which courts have held that broadly providing an automatic or mechanical means to replace a manual activity are not patentable generally correspond to instances in which some sort of simple mechanism supplants hand operation or dispenses with a required human element. See, e.g., In re Venner, 262 F.2d 91, 120 USPQ 193 (CCPA 1958)(directed to apparatus for molding trunk pistons wherein prior withdrawal by skilled artisan of middle core section upon solidification now done with machine); In re Rundell, 48 F.2d 958 (CCPA 1931)(directed to automatic as opposed to manual operation of a rotating turret to load cigars in a bunch concentrator used in cigar manufacturing). **The subject virtual financial aid technology does not merely automate or dispense of human elements because the players involved in financial aid are still required.** Student action is not eliminated because students must still be available to provide information. Educational institutions must also still be available to define how their institutional-specific system should be configured, to oversee compliance, and request automatic generation of reports now possible with the subject virtual technology.

Instead of mere automation, a completely new and different platform is provided by which a student goes about obtaining financial aid. The entire conventional financial aid system and process is transformed by the subject virtual financial aid technology. By providing an integrated on-line web-based application, a student is now capable of undergoing an online student interview process by which personal, demographic and financial information can be provided in a secure portal, using high bit-level encryption, protection from third-party intrusion and the like. This interview process is unique to a virtual financial aid office and not only provides a secure portal and process for information gathering, but also provides a mechanism for students to complete a PIN application thus securing subsequent access to the web-based application.

Online interviewing features are not the only additional tools now available for a financial aid office by way of the subject integrated web-based platform. A student is provided with instant access to the platform to provide additional updated information, and also to obtain a financial aid estimate (via the financial aid estimation service tool) even before actual authorized aid packages are processed. Specified algorithms and rules engines are implemented via software to perform various processing steps including interview processing, file review, aid determination and quality control (see steps and discussion shown in Figures 4 – 7, respectively). Specialized reporting can also be generated via the web-based application by providing users or administrators with a variety of data including in various selectable combinations – student name, social security numbers, whether or not an interview was submitted, current interview status, school term for the financial aid, whether or not an ISIR is on file, whether or not E-demo info has been received, start and end dates for compliance review, etc.

In summary, the subject virtual aid technology transforms the entire structure of financial aid interaction for both students and administrators and substantially enhances the financial aid experience for all users by providing additional tools and resources not previously available.

35 U.S.C. §103(a) REJECTION (CLAIMS 11-25 and 55-59):

Prior claims 11-25 and 55-59 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Marybeth Regan, "Utilizing the Internet in education", College and University, Washington: Spring 2001 Vol. 76, Iss. 4; pgs. 37-45 (hereinafter "Regan") in view of U.S. Patent No. 7,062,462 (Ireland et al.) With particular regard to the Regan and Ireland et al. references, Applicant notes several general distinctions between such references and the present invention.

First, with regards to Regan, such reference merely discloses piecemeal aspects of how the Internet might be utilized in higher education, but provides no solution for integration of features to create a single online financial aid processing application. Regan merely suggests a hypothetical scenario in which the Internet might be utilized for various purposes related to education. This reference is not enabling since it fails to provide a sufficient level of disclosure to one of ordinary skill in the art about how they would be able to create a web-based online financial aid processing system as set forth in the subject claims.

There are two specific financial aid features disclosed by Regan. These respectively pertain to (1) FAFSA applications required by the federal government for all students applying for federal financial aid; and (2) Sallie Mae Laureate, an application for private loan application and administration. These two features are different than the web-based application set forth in independent claims 11 and 60. These differences can be appreciated generally from Fig. 1 of the present application (illustrated below). FAFSA applications are completed through the federal government (entity 16 of Fig. 1). Sallie Mae Laureate is a financial aid lender/guarantor depicted as entity 14 in Fig. 1. Separate and distinct from these is the web-based application set forth in the subject claims, which generally correspond to aspects of the VFAO application 10 and SFAPC 12 depicted in Fig. 1.

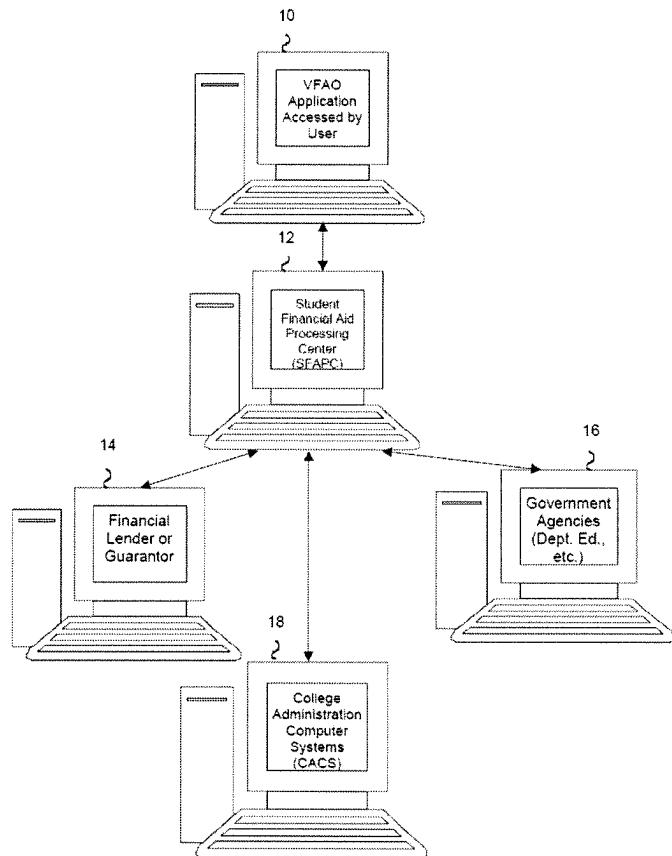


Figure 1

The subject web-based application offering virtual financial aid technology is different than FAFSA. A FAFSA application is the part of a financial aid process that a student must complete if he wants to apply for federal financial aid. Every student must fill out a FAFSA, which is provided by the federal government (entity 16 in Fig. 1). The web-based application of claims 11 and 60 does not purport to replace a FAFSA application, but instead provides the functional components of an institution-specific financial aid application designed to work hand-in-hand with FAFSA and other separate functions performed by the Department of Education. Evidence that the subject web-based application and FAFSA are indeed separate components is found in Fig. 4 and

paragraphs [0066]-[0067] of the original specification, specifically referencing separate steps 52 of completing FAFSA via Department of Education website and 34 of completing online student interview. See also claims 21 and 63, which set forth that the subject web-based application merely provides a link for students to access FAFSA applications, which they are required to complete as a separate step from the student interview and estimation features of the subject technology.

The web-based application of claims 11 and 60 is also different than Sallie Mae Laureate. Sallie Mae Laureate (disclosed in Regan) is an example of a financial lender or guarantor represented as system 14 in Fig. 1. In fact, Sallie Mae Laureate is disclosed in the original specification as a specific example of a loan guarantor or lender 14 (see paragraph [0067] of the original specification). The Sallie Mae Laureate system of applying for a loan is a task that can occur after the interviewing and aid processing performed by the subject web-based application. As noted in Regan, Sallie Mae Laureate is designed not as a replacement for campus financial aid systems, but an application that will integrate seamlessly with campus systems. Well, the web-based application set forth in claims 11 and 60 (aspects of which correspond to elements 10 and 12 of Fig. 1) has been developed as a new campus system capable of integrating with Sallie Mae Laureate (e.g., element 14 of Fig. 1). As such, it should be appreciated that the present invention is not a loan delivery application (like Laureate), but instead is an application that should be utilized before loan delivery to gather and process information required by a specific educational institution which may then subsequently relay part of the results to Laureate or another loan guarantor. The actual processing of the applications (and coordination of multiple pieces of information and compliance determinations required to effect such processing) corresponds to the technology set forth in independent claims 11 and 60, none of which is disclosed in Regan.

The various deficiencies of Regan discussed above cannot be cured by Ireland et al. because this reference also is not directed to the actual processing of financial aid

applications, but only to the provision of an interface for viewing and analyzing previously processed award packages to a student. For instance, in col. 6, lines 20-34, Ireland et al. disclose how it is still the responsibility of a school administrator to generate a financial aid package and preferably mail a letter to a potential student containing an announcement of the financial aid package. The viewing of the package by a student or parent may then occur upon accessing a given URL address and supplying a user name and password. Ireland et al. provides a plethora of features that may be utilized to view award packages, predict loan repayment amounts, etc. but such reference still does not disclose a method for the actual processing of such awards as set forth in claims 11 and 60 of the subject application. More specifically, processing features set forth in claim 11 not sufficiently described in Ireland et al. include respective services for obtaining personal and financial information about a given student, receiving an electronic copy of an Institutional Student Information Report (ISIR) document for a given student, comparing the student's personal and financial information with the ISIR information, and determining an authorized amount of financial aid the student is eligible for (as opposed to a separate previously estimated amount).

Not only are the features above not disclosed in Ireland et al., but Applicant respectfully asserts that Ireland et al. actually teaches away from use of such features. With regard to an information collection service for obtaining personal and financial information about a given student, Ireland et al. relies on a school's financial aid office to gather this requested information. Ireland et al. teaches away from using such information gathering features when it distinguishes itself from known on-line websites that require a user to input all information necessary for obtaining a cost projection. (See col. 2, lines 53-59 of Ireland et al.) Applicants note that in accordance with §2141.03 of the MPEP, prior art must be considered in its entirety, including disclosures that teach away from the claims. In contrast, features for the collection of such information and the financial aid estimation service for calculating an amount of aid

eligibility based on such collected information is not disclosed in Ireland et al. Ireland et al. discloses that such financial aid processing features are handled by school administrators who utilize the system of Ireland et al. to help students view and analyze already processed financial aid packages. (See col. 6, lines 21-34 of Ireland et al.)

Based on the above distinguishing remarks, Applicant respectfully submits that neither Regan nor Ireland et al. singularly or in combination discloses the features set forth in independent claims 11 and 60, and so withdrawal of any pending rejections of such claims is respectfully requested. Furthermore, since claims 12-13, 15, 17, 19-25, 56-57, 59 and 61-66 variously depend from independent claims 11 and 60 and further limit same, such claims should also be allowed over Regan and Ireland et al. and acknowledgement of the same is respectfully requested.

For at least the reasons set forth above, Applicant respectfully submits that claims 11-13, 15, 17, 19-25, 56-57 and 59-66 are patentable over the alleged combination of Regan and Ireland et al. references, and acknowledgement of the same is earnestly solicited.

CONCLUSION:

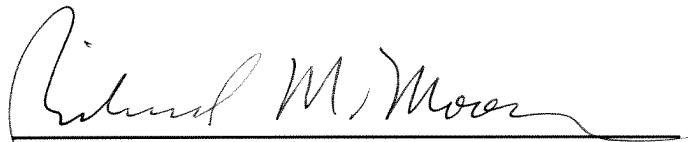
Inasmuch as all outstanding issues have been addressed, Applicant respectfully submits that the present application, including claims 11-13, 15, 17, 19-25, 56-57 and 59 and new claims 60-66, is in complete condition for issuance of a formal Notice of Allowance, and action to such effect is earnestly solicited. Applicant invites the Examiner to telephone the undersigned at his convenience should only minor issues remain after consideration of this response in order to permit early resolution of the same.

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Respectfully submitted,

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